

REMARKS

I. Status and Disposition of the Claims

Claims 1-25 were originally filed. Claims 1-9 have been withdrawn from further consideration upon a restriction requirement. By this Amendment, Applicants amended claims 10, 11, 13, 16-18, and 22 to more clearly point out and distinctly claim what Applicants consider the invention. Support for the amendments can be found throughout the as-filed specification, for example at paragraphs [0017] and [0018] in U.S. Patent Application Publication 2005/0244681 ("the '681 publication"), which is the publication of the instant application, in the original claims and in Figures 1 and 2. Claim 15 has been cancelled. Claims 26-28 are newly added. Support for the new claims can be found in paragraphs [0020], [0021], and [0023] in the '681 publication.

No new matter has been introduced. After the amendments have been entered, claims 1-14 and 16-28 will be pending and claims 1-9 are withdrawn from consideration. Claims 10-14 and 16-25 stand rejected. Applicants request reconsideration in view of the foregoing amendments and the following remarks.

II. Restriction Requirement

In response to a telephone request, Applicants' representative provisionally elected claims 10-25 without traverse in a telephone call on January 14, 2009. See Office Action at 4. Applicants hereby affirm this election.

III. Claims Rejections Under 35 U.S.C. § 102(e)

Claims 10-22 and 25 are rejected under 35 U.S.C. § 102(e) as being anticipated by Keskula (U.S. Patent Application Publication 2003/0186096) for the reasons of record. See Office Action at 6-7. Keskula discloses an air distribution method and

controller for a fuel cell, but fails to disclose a regulatory time constant for regulating any of its fluid streams, much less their relative values. Further, Keskula fails to disclose the relative flow volume of various fluid streams. The Examiner asserts that during the startup of a fuel cell system, “[t]he volume flow of fluid into the first inlet will need to be significantly higher in order to get the system operational” and “[t]he remaining volume flows will be lower because of this.” Office Action at 7. Keskula fails to identify such a fluid, much less to compare the flow rate of such a fluid with others. Therefore, contrary to the Examiner’s assertion, Keskula does not inherently disclose the claim limitation regarding the flow volume in independent claim 10.

Nevertheless, in an attempt to advance prosecution, Applicants amended claim 10 to further distinguish the presently-claimed invention from Keskula. For example, amended claim 10 recites that “at least one of the first sensor, the second sensor, or the third sensor is not a fluid flow rate sensor.” Claim 10, as amended. Keskula, on the other hand, solely uses air flow sensors (16-n) to detect flow rates of air streams. See Keskula at paragraphs [0019]-[0022] and Figure 3. Keskula fails to teach the use on another kind or rate sensor.

For at least the reasons set forth above, Applicants submit that Keskula fails to disclose each and every limitation in independent claim 10, as well as all claims that depend from claim 10, including claims 11-14, 16-22 and 25. Applicants respectfully request the withdrawal of the rejection.

IV. Claim Rejections Under 35 U.S.C. § 103

Claim 23 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Keskula as applied to claim 10, and further in view of Balasubramanian (U.S. Patent Application Publication 2003/0031902). See Office Action at 9-10. The Examiner appears to consider that Kelsukula discloses all claim limitations in claim 23 except for failing to teach the fluid being water. *Id.* The Examiner alleges that since “Balasubramanian teaches a controller for controlling the water levels at various multi-component system, [i]t would be obvious for one of ordinary skill in the art to use the controller system of Keskula with the fluid of Balasubramanian” to arrive at the claimed invention in claim 23. *Id.*

However, as pointed out in Section III, Kelsukula does not disclose a fuel processor or a control system as in the amended claim 10. Balasubramanian does not cure this defect. Therefore, even if the control system of Kelsukula is used to control water, one would not arrive at the claimed invention in claim 23.

Likewise, claim 24 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Keskula as applied to claim 10, and further in view of Beckmann (U.S. Patent Application Publication 2002/0192517). See Office Action at 10. The Examiner alleges that since “Beckmann teaches a controller and sensor that opens valves to supply fuel to a fuel cell,” one skilled in the art would combine the teachings in Keskula and Beckmann to arrive at the claimed invention in claim 24. *Id.* However, Kelsukula does not disclose a fuel processor or a control system as in the amended claim 10 and Beckmann does not cure this defect. Consequently, even if one would combine the

teaching in Kelsukula and Beckmann, one would not arrive at the claimed invention in claim 24.

For at least reasons set forth above, Applicants respectfully request the withdrawal of the rejections to claims 23 and 24.

V. Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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GARRETT & DUNNER, L.L.P.

A handwritten signature in black ink, appearing to read 'Mark D. Sweet', written over a horizontal line.

Dated: August 18, 2009

By: _____
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